IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3445 of 2005

Between:

The Yemmiganur Cooperative Stores Limited, A Society registered under the provisions of Cooperative Societies Act, Yemmiganur Kurnool District. rep.by its Secretary shri B.Krishna Murthy, S/o.B.Nanjundappa R/o.Yemmiganur Kurnool District.

..... PETITIONER

AND

The Yemmiganur Municipality Yemmiganur Kurnool District rep.by its Commissioner.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the respondent in making constructions in the land near the petitioner society in Sy.No. 318 of Vengalapuram village, Yemmiganur Mandal, Kurnool District belonging to the petitioner as illegal arbitrary and consequently direct the respondent not to make any constructions.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent. MR.S.I.NEWTON

The Court at the admission stage made the following :

ORDER:

The petitioner, Yemmiganur Cooperative Society filed this writ petition seeking a declaration that the alleged action of the respondent-Yemmiganur Municipality in making constructions in the land near the petitioner-Society in Sy.No.318 of Vengalapuram village, Yemmiganur Mandal, Kurnool District as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that in pursuance of an application made by the petitioner-Society, the Government issued G.O.Ms.No.794 dated 17-6-1975 alienating an extent of Ac:0-70 cents of land in Sy.No.318 of Vengalapuram village, Adoni Taluk, Kurnool District. Thereafter, the petitioner-Society has made an application for approval of the plan and the same was approved by the respondent-Municipality on 19-8-1975. In pursuance of the approved plan, the petitioner-Society constructed the buildings and also constructed the compound wall and has been in possession of the same for the past 30 years. While so, it is alleged that the respondent-Municipality has been high-handedly demolishing the construction of the compound wall without issuing any notice and without following the due process of law. The petitioner states that a notification was issued in Eenadu daily dated 10-1-2005 stating that the Municipality has proposed to construct shop rooms and godowns near the Ymmiganur Co-operative Stores and the interested persons can submit their applications for taking the premises on lease. In the circumstances, the petitioner got issued a legal notice dated 01-02-2005 stating that the Society is the absolute owner of the property and requesting

the respondent to desist from construction of the shopping complex. It is represented that inspite of the same, the respondent- Municipality has been proceeding with the activities. Hence, this writ petition.

Heard the learned counsel for the petitioner and perused the material on record.

At the outset, it is to be noted that there is nothing on record to show that the proposed constructions by the respondent-Municipality are on the land belonging to the petitioner society. Even assuming that the Municipality is encroaching into the land alienated to the petitioner under G.O.Ms.No.794, dated 17-6-1975, it is nothing but a dispute relating to property rights between the petitioner and the respondent. The petitioner failed to make out any case to show that the respondent has acted in breach of any statutory obligation. Hence, the jurisdiction under Article 226 of the Constitution of India cannot be invoked.

Accordingly, the Writ Petition is dismissed. However, this shall not preclude the petitioner to work out the appropriate common law remedy. No costs.

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02-03-2005

To

1. The Commissioner, Yemmiganur Municipality, Yemmiganur Kurnool.

2. Two C.D. copies.

sj